

**MINUTES
NEVADA STATE BOARD OF OPTOMETRY
PUBLIC HEARING**

November 8th, 2002
University of Nevada, Las Vegas
Meeting Room C, Thomas & Mack Center
4505 Maryland Parkway
Las Vegas, Nevada 89154

A public hearing on proposed regulatory changes by the Nevada State Board of Optometry was called to order by Board President, Kurt G. Alleman, O.D., at 11:10 o'clock A.M. on November 8th, 2002, in Meeting Room C, of the Thomas & Mack Center on the Campus of the University of Nevada, Las Vegas, 4505 Maryland Parkway, Las Vegas, Nevada.

Dr. Alleman advised those present that due and proper notice of the hearing had been given and that the proposed regulations had been reviewed by the Legislative Counsel Bureau.

Identifying themselves as present were:

Kurt G. Alleman, O.D., Board President
Brad C. Stewart, O.D., Board Member
Jack Sutton, O.D., Board Member
George Bean, Board Member
Judi Kennedy, Executive Director
Hal Taylor, Board Counsel

Attending the hearing were:

Mark Krueger, Deputy Attorney General
Zinda Hum, Nevada State Board of Dispensing Opticians, Optician
Dr. Paul Davis, Nevada State Board of Dispensing Opticians, Public Board Member
David Stewart, Nevada State Board of Dispensing Opticians, Retail Owner
Mu-Ling Brown, Licensed Optician, Glasses & Contacts

David S. Davis, O.D.
Jeffrey Austin, O.D.
Mark Doubrava, M.D., Nevada Ophthalmological Association
Jeanie Hall, Nevada State Board of Dispensing Opticians, Optician
Shanda Badger, Executive Director, Nevada Optometric Association

Dr. Alleman asked for comments on Legislative Counsel Bureau File No. R197-01, the proposed regulation relating to optometrists being certified to treat glaucoma.

Mr. Krueger asked if the Board was suggesting the proposed regulations were to be adopted as they stand or with changes. Mr. Taylor advised Mr. Krueger the workshop had ended and the public hearing had been called to order.

Mr. Krueger, commenting on Legislative Counsel Bureau File No. R049-02, relating to the release of prescriptions for contact lens, stated he believed certain sections of the proposed regulation were inconsistent and in conflict with Chapter 637 of the Nevada Revised Statutes.

Comments were received from David Stuart and Paul Davis regarding their belief the proposed regulation may have an economic impact on licensed opticians.

There ensued a discussion relative to the issuance of a prescription, specifically, the fitting of the lens required before a prescription could be generated. Dr. David Davis expressed his concern that in order to write a prescription, the optometrist, after completing an examination had to determine whether or not a successful fit of the contact lens had been achieved. Dr. Austin agreed, stating there is nothing in the proposed regulation that prohibits an optician from dispensing the lens, if an optometrist fits the contact lens and issues a prescription. Dr. Doubrava, identifying himself as Vice President of the Nevada Ophthalmological Society, stated the society is supportive of a pro-active stance to better

define the process of fitting contact lenses. Dr. Doubrava added he had seen patients who had suffered eye injury because of a lack of proper fit of contact lenses. Ms. Badger indicated, in the interest of the health of the public, the prescription should be filled as written.

Ms. Hall declared she was troubled by the prescription being brand specific, stating if she did not have the specific brand prescribed, it may force patients to fill their prescriptions in other venues such as swap meets. Dr. David Davis, commenting later, stated he believed the prescription must be brand specific because there are too many options if the prescription is generic, and that each option would have a different effect on the eye. Dr. Davis continued, opining that the prescription needed to stay specific, stating it was not the intention to limit options for the public, but he felt the language needed to remain. Ms. Brown expressed her belief that in some cases, lenses are the same, even though they have different brand names. Mr. Stuart interjected, that if a blue lens is prescribed, green can be substituted.

Dr. Alleman pointed out there is a provision in the proposed regulation that if a prescription is changed, the liability shifts from the prescriber to the person who instituted the change. Mr. Kruger interjected he thinks changing a prescription could carry criminal penalties. Dr. Doubrava stated if a patient indicates an interest in contact lenses, a lens can be put on the eye, instructions on wear and care can be given to the patient, but the doctor wants the patient to return to make sure everything is all right. Dr. Doubrava stated further, if the doctor determines everything is okay, a prescription is written. The patient can fill the prescription through the doctor or elsewhere. Dr. Doubrava went on to comment, if the

dispenser makes any change to the prescription as written, they have assumed the liability. Dr. David Davis declared if there was a problem with the lens, no prescription would be released. Dr. Doubrava agreed. Ms. Brown stated if a patient desired a change in the prescription as written, she would refer the patient back to the provider.

Dr. Doubrava added he saw the proposed regulation, not as an attempt to limit the patient's ability to have the prescription filled, but to more clearly define the fitting process. Ms. Hum stated she has fit contact lenses for ophthalmologists and optometrists and that the only thing she did not do was the examination. Ms. Hum went on to state opticians assume the health of the eye has been evaluated. Mr. Stuart declared if an optician fits a patient, the responsibility lies with the fitter.

Dr. Alleman read aloud the written statement submitted by licensed optician, Michael Grover. Dr. Alleman asked for further comments on the proposed contact lens regulation. There were no further comments.

Dr. Alleman asked again for comments on the proposed regulation relating to glaucoma treatment certification.

Dr. Doubrava stated he was opposed to the amendments as proposed. After a brief discussion with members of the Board, Dr. Doubrava submitted written modified language for the Board's consideration. Dr. Doubrava indicated to the Board that he was not at liberty to agree to any amendments.

Drs. Austin and Davis indicated they had some concerns with the proposed amendments. After an exchange between the Board, Dr. Doubrava, Dr. Austin and Dr. Davis, Dr. Austin presented written modifications for the consideration of the Board. Dr.

Stewart stated he did not believe the positions of the parties were so far apart that a language satisfactory to all parties could not be achieved.

Dr. Alleman asked for further comments on the proposed regulation relating to glaucoma treatment certification. There were no further comments.

Dr. Alleman asked for comments on the repeal of NAC 636.700. Dr. David Davis stated he supports the repeal.

Dr. Alleman closed the public comment portion of the hearing.

Dr. Stewart moved NAC 636.700 be repealed. Mr. Bean seconded the motion. The vote was unanimous.

Dr. Stewart moved the proposed regulation relating to glaucoma treatment certification be tabled. Mr. Bean seconded the motion. The vote was unanimous.

Dr. Sutton moved the proposed regulation relating to release of contact lens prescriptions be tabled. Mr. Bean seconded the motion. The vote was unanimous.

The hearing ended at 12:45 o'clock p.m.